REMARKS

The Abstract has been objected to. The Abstract has been amended to conform to MPEP § 608.01(b).

Claim 9 has been rejected under 35 U.S.C. 112, second paragraph. The broad recitation of "plastic" has been cancelled.

Claims 1, 8, 9 and 11-17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Whitcomb (US4173212). Claim 1 has been amended to include the subject matter of original Claim 7, now cancelled.

Claims 13-17 have been cancelled.

Claims 8, 9, 11 and 12 are dependent from independent claim 1. Claim 1, thus, as amended, has been rejected as unpatentable over Whitcomb in view of Lipinski (US4067347). The examiner recognizes the deficiencies of Whitcomb in that there is no internal removable separation wall. The examiner argues that Lipinski teaches that a removable internal separation wall 50 (of Lipinski) may be provided in a structure and it would be obvious to so modify the greenhouse of Whitcomb. However, it is clear from Col. 4, lines 29-66 of Lipinski that the outermost roof layer 86 is the fixed outer layer, an inner roof layer 44 (Fig. 4) is spaced from below layer 86 facing the interior of the structure, and a third roof layer 50 is disposed between outermost fixed layer 86 and inner layer 44. Thus, the teachings of Lipinski do not show or suggest an inner separation wall in contact with the inner area of the structure that is removable. Thus, there is no suggestion to modify Whitcomb as suggested by the examiner since the resulting modified Whitcomb greenhouse would still be lacking an internal removable separation wall.

As for the combination of references, the examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular

problem with which the inventor was concerned." In re Oetiker, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). Further, as stated by the Board of Patent Appeals in *Ex Parte Dassud,* 7 USPQ 1818 (Bd. Pat. App. & Int'f 1988), "Precise definition of the problem is important in determining whether a reference is from a nonanalogous art...defining the problem too broadly...may result in considering prior art as 'analogous' which is inconsistent with real world consideration."

Although the Whitcomb patent is directed to a self-contained solar greenhouse, the greenhouse has fixed inner and out walls and is fixed to a concrete base. The solar heated shelter of Lipinski is portable and, thus, non-analogous to the fixed greenhouse area. It is more applicable to a solar heated tent that can be easily moved (see Col. 1, lines 41-51). Thus, it is not obvious to take the removable wall of the portable tent of Lipinski and somehow apply it to the fixed greenhouse of Whitcomb.

For these reasons, claim 1, and all claims dependent thereon, are in condition for allowance.

The Director is authorized to charge any additional fee(s) or any underpayment of fee(s), or to credit any overpayments to **Deposit Account Number 50-2638**. Please ensure that Attorney Docket Number 072998-013900 is referred to when charging any payments or credits for this case.

Respectfully submitted,

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